

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Ageing

Aged Care Act 1997

Classification Amendment Principles 2005 (No.2)

The purpose of the *Classification Amendment Principles 2005 (No. 2)* is to make a technical amendment to omit a misdescribed item (item 3) of the *Classification Amendment Principles 2005 (No.1)* and to give effect to the purpose of the original misdescribed item.

Principles made under the Aged Care Act 1997

Subsection 96-1(1) of the *Aged Care Act 1997* (“the Act”) allows the Minister to make Principles providing for various matters required or permitted by a Part or section of the Act.

Subsection 96-1(2) of the Act provides that any Principles made under subsection 96-1(1) of the Act are disallowable instruments.

The Classification Principles is one of the sets of Principles made under the Act.

Context of the Classification Amendment Principles 2005 (No. 2)

The intention of the *Classification Amendment Principles 2005 (No.1)* was to amend the *Classification Principles 1997* (‘the Classification Principles’) to establish that, where a residential care recipient takes hospital leave followed by leave for transition care for a combined and continuous period of 30 days or more, the expiry date for a classification is at the end of the combined period of leave, regardless of whether the original expiry date would have fallen within or after this period.

The purpose of item 3 of the *Classification Amendment Principles 2005 (No.1)* was to make it clear that section 9.29B of the Classification Principles, which specifies the expiry date for a classification of a care recipient who takes extended hospital leave, does not specify the expiry date for a classification of a care recipient who takes extended hospital leave that is followed immediately by leave as provided by subsection 42-2(3A) of the Act (that is, where extended hospital leave is followed immediately by transition care leave).

Because item 3 of the *Classification Amendment Principles 2005 (No.1)* was misdescribed, the amendment to section 9.29B was ineffective. This could result in some question as to whether it is section 9.29B or the new section 9.29D, which was inserted by the *Classification Amendment Principles 2005 (No.1)*, that would operate to specify the expiry date for a classification of a care recipient who takes extended hospital leave plus transition care leave. The purpose of the *Classification Amendment Principles 2005 (No.2)* is to correct this anomaly and clarify that it is section 9.29D that specifies the expiry date under these circumstances.

Consultation

The parameters of transition care were developed through a consultation process with State and Territory Government representatives. All States and Territories were included in a Transition Care Task Group, along with appropriate clinical representatives.

Regulation impact statement

The Office of Regulation Review (ORR) assessed the proposed amendments and determined that the preparation of a Regulation Impact Statement was not required (ORR ID number 7425).

NOTES ON CLAUSES

Clause 1 provides that the Amending Principles are to be cited as the *Classification Amendment Principles 2005 (No. 2)*.

Clause 2 provides that the Principles are taken to have commenced on 24 June 2005 (the date that the *Classification Amendment Principles 2005 (No. 1)* were registered).

Clause 3 amends the *Classification Amendment Principles 2005 (No. 1)* as directed in Schedule 1 of the *Classification Amendment Principles 2005 (No. 2)*.

Clause 4 amends the *Classification Principles 1997* as directed in Schedule 2 of the *Classification Amendment Principles 2005 (No. 2)*.

Schedule 1: Amendment of the Classification Amendment Principles 2005 (No. 1)

Item 1 removes a misdescribed item (item 3) from the *Classification Amendment Principles 2005 (No.1)*.

Schedule 1: Amendment of Classification Principles 1997

Item 1 amends section 9.29B, which specifies the expiry date for a classification of a residential care recipient who takes extended hospital leave (that is, for a continuous period of 30 days or more), so that it does not apply where a period of extended hospital leave is immediately followed by a period of leave for transition care (as provided by subsection 42-2(3A)). This brings into effect the original intention of the misdescribed item (item 3) of the *Classification Amendment Principles 2005 (No.1)*.